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8 United States District Court  
9 Eastern District of California  
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12 Gerald Spence,

13 Plaintiff,

No. Civ. S 05-0188 LKK PAN P

14 vs.

Order

15 J. S. Woodford, et al.,

16 Defendants.  
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18 January 28, 2005, plaintiff, a prisoner without counsel,  
19 submitted a complaint without the filing fee or an application  
20 for leave to proceed in forma pauperis. February 9, 2005, the  
21 court gave plaintiff 30 days either to pay the filing fee or to  
22 submit a motion for leave to proceed in forma pauperis. March 7,  
23 2005, plaintiff submitted the required papers. March 9, 2005,  
24 the court made an amended order to reflect the correct filing fee  
25 and, through clerical oversight, gave plaintiff time to pay the  
26 filing fee or seek leave to proceed in forma pauperis. April 28,

1 2005, the court granted plaintiff leave to proceed in forma  
2 pauperis, found plaintiff stated a claim against some defendants  
3 but not others and gave plaintiff time either to file an amended  
4 complaint or to proceed with service of process on some  
5 defendants.

6 May 9, 2005, plaintiff notified the court he believes he  
7 never sought leave to proceed in forma pauperis because he  
8 decided not to pursue this action.

9 Accordingly, the April 28, 2005, order is vacated. The  
10 clerk of the court is directed to close this file.

11 So ordered.

12 Dated: July 12, 2005.

13 /s/ Peter A. Nowinski  
14 PETER A. NOWINSKI  
15 Magistrate Judge  
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